

Ed Zink
DEPUTY YELLOWSTONE COUNTY ATTORNEY
P.O. Box 35025
Room 701, Courthouse
Billings, Montana 59107-5025
Telephone: 406/256-2870
Attorney For Plaintiff

**MONTANA THIRTEENTH JUDICIAL DISTRICT COURT,
YELLOWSTONE COUNTY**

STATE OF MONTANA,

Plaintiff,

vs.

STEVEN LEO MATZ,

Defendant.

CAUSE NO. DC:

JUDGE:

**AFFIDAVIT AND MOTION FOR
LEAVE TO FILE INFORMATION**

The undersigned Deputy County Attorney of Yellowstone County, Montana, being first duly sworn upon his oath, moves the Court for Leave to File an Information, based upon information developed through an investigation conducted by law enforcement officers, charging the above-named Defendant with the crime of:

AGGRAVATED ASSAULT (FELONY) (Weapon Enhanced Penalty)
(punishable by not less than 2 years or more than 20 years in state prison and a fine not to exceed \$50,000)

committed at Yellowstone County, State of Montana, on or about May 30, 2004.

That law enforcement officers have made a full and careful investigation of all the facts and circumstances surrounding the commission of said offense, so far as they are known or ascertainable; that he believes it a proper case for filing of an Information and that for this reason, and none other, the foregoing motion is made.

The Court is informed that the Billings Police Department (BPD) investigation revealed the following:

On May 30, 2004, at approximately 2246 hours, Billings Police Officers Brewer and Wanchena were dispatched to 2048 Grand Avenue, the location of Village Inn Pizza, for a reported disturbance. Dispatch advised that a complainant called in a fight in the parking lot. Dispatch then advised there was a scream and the complainant was no longer on the phone. Officer Wanchena arrived first at the scene and he observed three people in a fight on the ground, on the east side of the building. As he got out of his patrol vehicle, Officer Wanchena observed a handgun tossed up into the air and landed near the three. Officer Wanchena saw a female, later identified as AMBER ANDERSEN, was on top of, and holding a male, later identified as STEVEN LEO MATZ (d.o.b. 06/23/1949), the Defendant herein. Officer Wanchena saw the Defendant himself was on top of a second male, later identified as STEVE ANDERSEN. As he ran up to the three, Officer Wanchena observed Amber and the Defendant roll off Steve. Officer Wanchena heard Amber screaming that her husband had just been shot. Officer Wanchena placed the Defendant in handcuffs immediately after Amber released him.

Officer Wanchena radioed dispatch that an ambulance was needed urgently. Other officers began to arrive to assist in helping the victim and in securing the area. Medical personnel also arrived and they attended to Steve, who had in fact been shot in the abdomen area. After they treated Steve at the scene, they transported him to the hospital, where he underwent emergency treatment and surgery for the gunshot wounds.

Subsequently, officers and detectives spoke with Amber and learned the following: Amber said she and her husband Steve were closing the restaurant when they observed a male, the Defendant, in the rear area by the dumpster. Amber said she and Steve went outside and Steve told the Defendant that he was trespassing and that he needed to leave. Amber said the Defendant said he did not have to leave, so Steve said he was going to call the police. Amber said she returned to the door of the restaurant and was about to go inside to call police. Amber said she saw Steve walking toward her and the Defendant was following him. She said she went inside, turned down the loud radio, and then called 911. She said her husband poked his head in the door and said, "Call 911 now!" and then went back out. Seconds later, Amber said she heard two gunshots. She said she screamed and dropped the phone and ran outside. She said she saw her husband on his back, on the ground, in a struggle with the Defendant, who was on top of Steve. She said her husband was wrestling over the gun in the Defendant's hands and Steve was screaming at her to help. She said she jumped on top of the Defendant and reached around him and also grabbed onto the gun. She said the Defendant told her to let go of the gun, but her husband screamed, "Don't let go of the gun or he's gonna' kill me!" Amber said she fiercely fought to maintain her grip on the gun. She said they struggled until the first police officer arrived and pointed his gun at them. At about this moment, she said she yanked the gun away from the Defendant and tossed it a few feet away.

The victim, Steve, remains in intensive care at Deaconess Hospital following the surgery and other emergent treatment to internal organs. Subsequently, the 911 call was

obtained and what sounds like two gun shots can be heard in the call. The Defendant's handgun and other items of evidence have been recovered.

The investigation continues.

Ed Zink
Deputy County Attorney
Yellowstone County, Montana.

Subscribed and sworn to before me on March 27, 2007.

Sandra Kerby
Notary Public for the State of Montana.
Residing at Billings, Montana.
My Commission Expires: January 1, 2008

(SEAL)

Leave to file Information
by the Court GRANTED.

Bail fixed at \$ _____.

JUDGE, District Court.

Dated: _____.